

# United States District Court District of Massachusetts

LUIS RIVERA,  
Petitioner,

V.

CIVIL ACTION NO. 2004-12717-RGS

DAVID NOLAN, Superintendent,  
Respondent.

## **SCHEDULING ORDER**

COLLINGS, U.S.M.J.

The Court of Appeals has directed that the Court consider the Petitioner's argument that his petition is not time-barred because at the time he filed his Petition, one-year had not run from "...the date on which the factual predicate of [his] claims could have been discovered through the exercise of due diligence." 28 U.S.C. §2244(d)(1)(D).

Accordingly, the petitioner shall file and serve, *on or before the close of business on Monday, December 24, 2007*, a memorandum setting forth the facts and law which form the basis of his assertion that "the factual predicate of [his]

claims could have been discovered through the exercise of due diligence” before one year of the date upon which he filed his Petition.

The respondent shall file and serve a brief in opposition to the petition’s 2244(d)(1)(D) claim *on or before the close of business on Friday, January 11, 2008.*

/s/ Robert B. Collings

ROBERT B. COLLINGS  
United States Magistrate Judge

November 20, 2007.